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10/718,247	11/20/2003	Mitsutoshi Shinkai	450100-04812	9926

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EXAMINER

FLEURANTIN, JEAN B

ART UNIT	PAPER NUMBER
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2162

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/718,247

Applicant(s)

SHINKAI ET AL.

Examiner

JEAN B. FLEURANTIN

Art Unit

2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6-14,16-35 and 50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6-14,16-35 and 50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/29/07 & 4/20/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This is in response to the amendment filed on 3/13/2007.

The following is the status of claims:

Claims 2-5, 15 and 36-49 have been canceled.

Claim 50 has been added. The limitations of claim 50 are discussed as indicated in the rejections.

Claims 1, 6-14, 16-35 and 50 remain pending for examination.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 1/29/2007 and 4/20/2007. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6, 7, 34 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: "a take meta data creating unit for creating take meta data for each take, managed in increments of increment files for each take, comprising meta data relating to takes which are consecutive shooting processing from the start to the end of one recording; and a take correlating unit for correlating content data relating to said take and said take meta data with said cut within said program meta data."

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 6 and 34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As set forth in MPEP 2106:

As per independent claim 6

The independent claim 6 is directed to a computer-readable medium, in which creating program meta data. Therefore, the mechanism for correlating content data relating to the take and the take meta data with the cut within the program meta data, and representing the range as the purpose of the invention. The claimed, "medium" fails to fall with one of four statutory categories of invention, process, machine, manufacture and composition, since it fails to produce a useful and tangible result.

As per independent claim 34

The independent claim 34 is directed to a computer-readable medium, in which obtaining program meta data. Therefore, the mechanism for correlating content data relating to the take and the take meta data with the cut within the program meta data, and representing the range as the purpose of the invention. The claimed, "medium" fails to fall with one of four statutory categories of invention, process, machine, manufacture and composition, since it fails to produce a useful and tangible result.

Furthermore, the claim lacks the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor a composition of matter. As such, the claim fails to fall within a statutory category. It is, at best, functional descriptive material per se.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because "[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.").

And, all the pending claims are rejected under the same rational.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP No. 10-174040 issued to Takano Akira ("Akira") in view of "Tools and Techniques for Globally Unique Content Identification issued to James H. Wilkinson and al., submitted by the Applicant ("Wilkinson").

As per claim 1, Akira "a picture program production assistance system for producing picture programs, said system comprising a project-making device for creating program meta data in planning sheet meta data which includes program meta data" (see pps [0002 & 0003]), "which is managed in increment files for each of said picture programs" (see pp [0006]), and "a hierarchical structure including at least a cut hierarchical level made up of meta data relating to cuts which are the smallest increment making up said picture program at the time of project-making" (see pps [0006 & 0012]) and

"take meta data, managed in increments of increment files for each take, comprising meta data relating to takes which are consecutive shooting processing from the start to the end of one recording" (see pps [0010 & 0012]); and

"a processing device for obtaining said program meta data created by said project-making device, creating said take meta data for each said take" (see pps [0009 & 0010]), and "correlating content data relating to said take and said take meta data with said cut within said program meta data" (In light the specification at page 3, pp 2, lines 9-14, purposed of correlating take meta data with one said cut is for small increment. The method for creating edit data is disclosed by Akira, see pp [0002]).

Akira fails to explicitly disclose a program identification hierarchical level which is a highest hierarchical level made up of meta data relating to said picture program. However, Wilkinson discloses a program identification hierarchical level which is a highest hierarchical level made up of meta data relating to said picture program (see Wilkinson page 795, top first left pp & col. 3, pps 2 & 3). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Akira by a program identification hierarchical level which is a highest hierarchical level made up of meta data relating to said picture program as disclosed by Wilkinson (see Wilkinson Fig. 2). Such a modification would allow the system Akira to provide sufficient metadata by which the source of each content unit can always be identified, regardless of the current ownership or status (see Wilkinson page 795, col. 3 pp 4), therefore, improving the performance and manageability of the searching method for a security policy database.

As per claims 6 and 7, in addition to claim 1, Akira further discloses "correlating content data relating to a plurality of takes and take meta data with one said cut" (In light the specification at page 3, pp 2, lines 9-14, purposed of correlating take meta data with one said cut is for small increment. The method for creating edit data is disclosed by Akira, see pp [0002]).

As per claim 8, the limitations of claim 8 are similar to claim 1, therefore, the limitations of claim 8 are rejected in the analysis of claim 1, and this claim is rejected on that basis.

As per claims 9 and 19, in addition to claim 1, Akira further discloses "a scene hierarchical level which is a hierarchical level above said cut hierarchical level and comprises meta data relating to a scene made up of at least one said cut" (see pp [0006]).

As per claims 11 and 12, Akira discloses "said program meta data includes production instruction information which is meta data instructing the production contents of said picture program" (see pp [0002]).

As per claims 13 and 14, Akira discloses "following executing said take, said take correlating unit correlates content data relating to said take and said take meta data with said cut selected by a user before executing said take" (In light the specification at page 3, pp 2, lines 9-14, purposed of correlating take meta data with one said cut is for small increment. The method for creating edit data is disclosed by Akira, see pp [0002]).

As per claims 16 and 17, in addition to claim 8, Akira further discloses "said take correlating unit can correlate content data relating to a plurality of said takes and said take meta data with one said cut" (In light the specification at page 3, pp 2, lines 9-14, purposed of correlating take meta data with one said cut is for small increment. The method for creating edit data is disclosed by Akira, see pp [0002]).

As per claim 18, the limitations of claim 18 are similar to claim 1, therefore, the limitations of claim 8 are rejected in the analysis of claim 1, and this claim is rejected on that basis.

As per claim 19, in addition to claim 10, Akira further discloses "the file name of said take meta data" (see pp [0006]).

As per claim 20, the limitations of claim 20 are similar to claim 2, therefore, the limitations of claim 20 are rejected in the analysis of claim 2, and this claim is rejected on that basis.

As per claim 21, the limitations of claim 21 are similar to claim 2, therefore, the limitations of claim 21 are rejected in the analysis of claim 2, and this claim is rejected on that basis.

As per claims 22 and 23, in addition to claim 1, Akira further discloses "which is meta data relating to the shooting conditions of hierarchical levels on or higher than said cut hierarchical level, as said program meta data" (see pps [0006 & 0012]).

As per claim 24, the limitations of claim 24 are similar to claims 21 and 22, therefore, the limitations of claim 24 are rejected in the analysis of claims 21 and 22, and this claim is rejected on that basis.

As per claims 25 and 26, Akira discloses "said imaging device further comprises a meta data display control unit for displaying said program meta data on a display unit" (see pp [0011]).

As per claim 27, Akira discloses "said imaging device further comprises a shot cut selecting unit for selecting said cut for correlation with said content data of said take and said take meta data, from said cuts within program meta data displayed on said display unit, based on user input" (see pp [0011]).

As per claims 28 and 31, in addition to claim 25, Akira further discloses "a content data editing unit for editing said content data, based on said program meta data and said take meta data" (see pp [0003 & 0003]).

As per claim 29, in addition to claim 1, Akira further discloses "a take correlation information editing unit for editing said take correlation information, based on the editing results of said content data by said content data editing unit" (see [0002 & 0003]).

As per claims 32-35, the limitations of claims 32-35 are similar to claims 1 and 3-14, therefore, the limitations of claims 32-35 are rejected in the analysis of claims 1 and 3-14, and these claims are rejected on that basis.

Claim Objections / Allowable Subject Matter

Claims 20 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Applicant' Remarks

Applicant's arguments filed 3/13/2007, with respect to the pending claims have been fully considered but, have been found persuasive only the extent the prior art of record does not specifically disclose the limitations "... correlating content data relating to a plurality of takes and take meta data with one said cut." However, Wilkinson discloses such limitations.

Applicant arguments with respect to 35 U.S.C. 101 rejections of the independent claims are persuasive. Thus, the rejections have been withdrawn. However, the independent claims 6 and 34 are rejected under 35 U.S.C. 101 because claimed limitations are directed to non-statutory subject matter and fail to produce a useful and tangible result.

The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. In re Cortright, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999).

CONTACT INFORMATION

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEAN B. FLEURANTIN whose telephone number is 571-272-4035. The examiner can normally be reached on 7:05 to 4:35.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN E BREENE can be reached on 571-272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jean Bolte Fleurantin

Patent Examiner

Technology Center 2100

May 17, 2007